the 1976 act. It has become increasingly clear during the past year that the 1976 act changes do not adequately deal with the problems of Americans working abroad.

The problems with the exclusion are primarily caused by the dramatic increases in living costs in certain areas overseas. In the Mideast, for instance, an apartment may rent for as much as $20,000 or $30,000 a year or more. The $15,000 exclusion provided for in the 1976 act is simply not adequate to cover the additional costs for housing, education, and the like which are incurred by Americans working in these high-cost foreign areas.

In the last Congress, as Chairman of the Task Force on Foreign Source Income of the Committee on Ways and Means, I became very concerned about the problems encountered by Americans working abroad. While the Task Force felt that the 1976 Act changes substantially dealt with certain problems that arose under prior law, it also felt that a reexamination of the exclusion for private individuals would nevertheless be appropriate. In particular, the task force felt that, in conjunction with an examination of the exclusion for overseas allowances provided governmental employees, there should be an examination of the appropriateness of extending to private employees any exclusions for excess foreign living costs which are provided to Government employees. On the basis of the additional information that has come to light in the past year and a half since the task force met, I feel even more strongly that Congress should seriously consider converting the present flat amount exclusion to a more equitable exclusion based on the excess living costs incurred by the taxpayer.

As Chairman ULLMAN has pointed out, the postponement of the effective date of the 1976 act changes will give the committee the opportunity to review the alternative proposals for modifying the taxation of Americans working abroad. I believe that it is very important that we seize this opportunity to adopt a more equitable system of taxing Americans working abroad which would take into account their actual excess foreign living costs.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 9251, as amended.

The question was taken.

Mr. STEIGER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE SUPPLEMENTAL REPORT ON H.R. 7442, MAKING TECHNICAL AND OTHER CONFORMING CHANGES

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may be permitted to file a supplemental report on H.R. 7442, making technical and other conforming changes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

UTILITY POLE ATTACHMENTS

Mr. WIRTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7442) to amend the Communications Act of 1934 to provide for the regulation of utility pole attachments, as amended.

The Clerk read as follows:

H.R. 7442

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

"UTILITY POLE ATTACHMENTS

"SEC. 224. (a) As used in this section:

"(1) The term 'utility' means any person who provides telephone service or electric energy to the public and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for wire communication. Such term does not include any corporation or other similar entity owned by the Federal Government.

"(2) The term 'State authority' means the government of any State, any political subdivision, agency, or instrumentality of a State, and any public utility district or other similar special purpose district established under State law.

"(3) The term 'Federal Government' means the Government of the United States or any agency or instrumentality thereof.

"(4) The term 'pole attachment' means any attachment for wire communication on a pole, duct, conduit, or other right-of-way owned or controlled by a utility.

"(5) The term 'usable space' means the space on a utility pole above the minimum grade level which can be used for the attachment of wires and cables.

"(b)(1) The Commission shall regulate the rates, terms, and conditions for pole attachments in any case in which such rates, terms, and conditions are not regulated by any State authority. Any such State authority may act at any time to regulate such rates, terms, and conditions. Any such regulations prescribed by the Commission or by any State authority shall assure that rates for pole attachments are just and reasonable.

"(2) A just and reasonable rate, whether prescribed by the Commission or by State authority, shall assure the utility the recovery of not less than the additional costs of providing pole attachments nor more than the actual capital and operating expenses of the utility attributable to that portion of the pole, duct, or conduit used by the pole attachment. Such portion shall be the percentage of the total usable space on a pole, or the total capacity of the duct or conduit, that is occupied by the pole attachment.".

SEC. 2. Upon the expiration of the 5-year period that begins on the date of the enactment of this Act—

(1) section 224(a)(4) of the Communications Act of 1934, as added by the first section of this Act, is repealed;

(2) section 224(b)(2) of such Act, as added by the first section of this Act, is repealed; and

(3) section 224(b)(1) of such Act, as added by the first section of this Act, is redesignated as section 224(b).

The SPEAKER pro tempore. Is a second demanded?

Mr. FREY. Mr. Speaker, I demand a second.

Mr. BAUMAN. Mr. Speaker, I object to unanimously ordering the second and I demand that it be ordered by tellers.

The SPEAKER pro tempore. The question is, will a second be ordered?

Tellers were ordered, and the Speaker pro tempore appointed as tellers Mr. WIRTH and Mr. BAUMAN.

The House divided, and the tellers reported that there were—ayes 14, noes 4.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 389, nays 7, answered "present" 2, not voting 36, as follows:

[Roll No. 684]

YEAS—389

Abdnor	Clay	Giaimo
Addabbo	Cleveland	Gibbons
Akaka	Cochran	Gilman
Alexander	Cohen	Ginn
Allen	Coleman	Glickman
Ambro	Collins, Tex.	Goldwater
Ammerman	Conable	Gonzalez
Anderson, Calif.	Conte	Goodling
	Conyers	Gore
Anderson, Ill.	Corcoran	Gradison
Andrews, N.C.	Corman	Gudger
Annunzio	Cornell	Guyer
Applegate	Cornwell	Hagedorn
Archer	Cotter	Hall
Armstrong	Coughlin	Hamilton
Ashley	Crane	Hammer-schmidt
Aspin	Daniel, Dan	
AuCoin	Daniel, R. W.	Hanley
Badham	Danielson	Hannaford
Badillo	Davis	Harkin
Bafalis	Delaney	Harrington
Baldus	Dent	Harris
Barnard	Derrick	Harsha
Baucus	Derwinski	Hawkins
Beard, R.I.	Devine	Heckler
Beard, Tenn.	Dickinson	Hefner
Bedell	Dicks	Heftel
Beilenson	Dingell	Hightower
Benjamin	Dodd	Hillis
Bennett	Dornan	Holland
Bevill	Downey	Hollenbeck
Biaggi	Drinan	Holt
Bingham	Duncan, Oreg.	Holtzman
Blanchard	Duncan, Tenn.	Howard
Boggs	Early	Hubbard
Boland	Eckhardt	Huckaby
Bolling	Edgar	Hughes
Bonior	Edwards, Ala.	Hyde
Bonker	Edwards, Calif.	Ichord
Bowen	Edwards, Okla.	Ireland
Brademas	Eilberg	Jacobs
Breaux	Emery	Jeffords
Brinkley	English	Jenkins
Brodhead	Erlenborn	Jenrette
Brooks	Ertel	Johnson, Calif.
Broomfield	Evans, Colo.	Johnson, Colo.
Brown, Calif.	Evans, Del.	Jones, N.C.
Brown, Mich.	Evans, Ga.	Jones, Okla.
Brown, Ohio	Evans, Ind.	Jones, Tenn.
Broyhill	Fary	Jordan
Buchanan	Fascell	Kasten
Burgener	Fenwick	Kastenmeier
Burke, Calif.	Findley	Kazen
Burke, Fla.	Fish	Kelly
Burke, Mass.	Fisher	Kemp
Burleson, Tex.	Fithian	Ketchum
Burlison, Mo.	Flippo	Keys
Burton, Phillip	Flood	Kildee
Butler	Florio	Kindness
Byron	Flynt	Kostmayer
Caputo	Foley	Krebs
Carney	Ford, Mich.	Krueger
Carr	Ford, Tenn.	LaFalce
Carter	Forsythe	Lagomarsino
Cavanaugh	Fountain	Latta
Cederberg	Frenzel	Le Fante
Chappell	Frey	Leach
Chisholm	Fuqua	Lederer
Clausen, Don H.	Gammage	Leggett
	Gaydos	Lehman
Clawson, Del	Gephardt	Lent

Levitas	Nowak	Slack
Livingston	O'Brien	Smith, Iowa
Lloyd, Calif.	Oakar	Smith, Nebr.
Lloyd, Tenn.	Oberstar	Snyder
Long, La.	Obey	Solarz
Long, Md.	Ottinger	Spellman
Lott	Panetta	Spence
Lujan	Patten	St Germain
Lundine	Patterson	Staggers
McClory	Pattison	Stangeland
McCloskey	Pease	Stanton
McCormack	Perkins	Stark
McDade	Pettis	Steed
McFall	Pickle	Steers
McHugh	Poage	Steiger
McKay	Pressler	Stockman
McKinney	Preyer	Stokes
Madigan	Price	Studds
Maguire	Pritchard	Stump
Mahon	Pursell	Taylor
Mann	Quayle	Teague
Markey	Quie	Thompson
Marks	Quillen	Thone
Marlenee	Railsback	Thornton
Martin	Rangel	Traxler
Mazzoli	Regula	Treen
Meeds	Reuss	Trible
Metcalfe	Rhodes	Tsongas
Michel	Rinaldo	Tucker
Mikulski	Risenhoover	Udall
Mikva	Roberts	Ullman
Milford	Robinson	Vander Jagt
Miller, Calif.	Rodino	Vanik
Miller, Ohio	Roe	Vento
Mineta	Rogers	Waggonner
Minish	Rooney	Walker
Mitchell, Md.	Rosenthal	Walsh
Mitchell, N.Y.	Rostenkowski	Wampler
Moakley	Rousselot	Watkins
Moffett	Roybal	Waxman
Mollohan	Rudd	Weaver
Montgomery	Runnels	Weiss
Moore	Ruppe	White
Moorhead, Calif.	Russo	Whitehurst
	Ryan	Whitley
Moorhead, Pa.	Santini	Whitten
Moss	Sarasin	Wiggins
Mottl	Satterfield	Wilson, Bob
Murphy, Ill.	Sawyer	Wilson, C. H.
Murphy, N.Y.	Scheuer	Wilson, Tex.
Murphy, Pa.	Sebelius	Wirth
Murtha	Seiberling	Wright
Myers, Gary	Sharp	Wydler
Myers, John	Shipley	Wylie
Myers, Michael	Shuster	Yates
Natcher	Sikes	Yatron
Neal	Simon	Young, Fla.
Nedzi	Sisk	Young, Tex.
Nichols	Skelton	Zablocki
Nix	Skubitz	Zeferetti

NAYS—7

Ashbrook	Grassley	Volkmer
Bauman	Hansen	
Cunningham	Symms	

ANSWERED "PRESENT"—2

Flowers	Pike

NOT VOTING—36

Andrews, N. Dak.	Koch	Rose
	Luken	Schroeder
Blouin	McDonald	Schulze
Breckinridge	McEwen	Stratton
Burton, John	Marriott	Van Deerlin
Collins, Ill.	Mathis	Walgren
D'Amours	Mattox	Whalen
de la Garza	Meyner	Winn
Dellums	Nolan	Wolff
Diggs	Pepper	Young, Alaska
Fowler	Rahall	Young, Mo.
Fraser	Richmond	
Horton	Roncalio	

So a second was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. WIRTH) will be recognized for 20 minutes, and the gentleman from Florida (Mr. FREY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Speaker, I yield myself such time as I may consume.

(Mr. WIRTH asked an was given permission to revise and extend his remarks.)

Mr. WIRTH. Mr. Speaker, first let me compliment Mr. VAN DEERLIN, the chairman of the Communications Subcommittee, for the excellent job he has done shepherding this legislation through hearings and markup. His reputation for diplomacy and knowledge of communications is obviously well earned.

Mr. Speaker, I also wish to compliment the ranking minority member, the gentleman from Florida (Mr. FREY), and particularly the gentleman from North Carolina (Mr. BROYHILL), who brought this legislation from some significant disagreement 2 years ago to the point of consensus at which we are today.

As you know, Mr. Speaker, the regulation of CATV pole attachments is unfinished business. The Commerce Committee reported a pole attachment bill to the House at the end of the last Congress, but due to the press of business it was not considered.

That is why the present legislation is before you today. H.R. 7442 will resolve a longstanding problem in the relationship of cable television companies on the one hand, and power and telephone utilities on the other.

The Subcommittee on Communications held hearings on the pole attachment question in both the 94th and 95th Congresses. It heard from the FCC, the CATV companies, the State regulators and the utilities.

The subcommittee found that few States regulate pole rates even though poles are almost always a utility monopoly. Moreover, we found numerous abuses of this monopoly power. Many utilities were charging extremely high rates, unrelated to the costs of the attachments. Cable companies had no choice but to pay these rates; they had nowhere to go to get a fair hearing.

Mr. Speaker, perhaps the most interesting aspect of this bill is its innovative approach to balancing State and Federal regulatory roles. The concept of the "zone of reasonableness" within which any regulatory authority may operate provides a regulatory compromise between State and Federal interests while protecting the public interest in the face of a monopoly service.

This legislation is the product of lengthy negotiations and successful compromises. Under the skilled and diplomatic leadership of Chairman VAN DEERLIN, what last year was a controversial issue, this year is a consensus bill. H.R. 7442 is supported by both the National Association of Regulatory Utility Commissioners (NARUC), representing the State utility commissioners, and the National Cable Television Association because it strikes a fair balance between States' rights and Federal regulation.

Mr. Speaker, H.R. 7442 was reported unanimously by both the Subcommittee on Communications and the full Interstate and Foreign Commerce Committee. I urge its adoption by the House of Representatives.

H.R. 7442 has three major provisions: First, it requires the Federal Communications Commission to regulate the rates, terms and conditions of pole attachments if they are not being regulated by a state or other non-federal authority. It further provides that a non-federal authority may pre-empt the FCC's jurisdiction at any time. The Committee did not wish to require federal regulation where a state or locality was prepared to assume the responsibility.

H.R. 7442 does not establish procedures for adjudicating complaints or promulgating regulations. The Administrative Procedure Act provides sufficient guidelines for the FCC in this regard. More important, we have sought to solve this pole attachment problem with a minimum of bureaucracy and expense. Thus, the FCC should quickly establish regulations to implement this legislation, but should not oversee all pole attachment rates on its own initiative. We expect that the Commission will normally only take action in individual disputes after the complaint of one of the parties.

Second, H.R. 7442 provides that regulations written by, and proceedings conducted by the FCC or a non-federal authority shall assure that the rates for pole attachments are "just and reasonable." A just and reasonable rate is defined as one which falls within a zone of reasonableness set forth in the bill.

The floor of this zone is incremental cost: additional costs which the utility would not have had but for the CATV cable attached to its pole. This floor will ensure that a utility will not lose money by having CATV cable on its poles. Because CATV companies almost invariably are using otherwise unused space, even this floor will provide an added benefit to utilities.

The upper end of the range allows a charge to the CATV pole user of its proportionate share of the total costs of the pole, such total costs being the recurring operating expenses, and capital costs attributable to the utility pole for the period covered by the rate.

Once these expense items and capital costs are known, the formula provides a method for determining the maximum portion of these total pole costs which may be assigned to the CATV system. The allocation formula provides that a cable system may be required to bear a proportionate share of the total pole costs in exactly the same proportion that its attachment and attendant clearances take up usable space. By way of example, on a typical utility pole 35 feet in length there are 11 feet of usable space (that space above minimum grade level clearance usable for attaching cable, telephone, and electric wires and associated equipment). By what is virtually a uniform practice throughout the United States, cable television is assigned approximately one foot out of the 11 feet of usable space. (While cable only physically occupies approximately one inch of this space, half the clearance spaces between CATV cable and the next adjacent pole users are attributed to CATV.) In this example, therefore, cable's share of the total capital costs and operating expenses for the entire 35-foot pole would be one-eleventh.

Cable would pay its share of not just the cost of the 11 feet of usable space but of the total costs of the entire pole, including the unusable portion. This allocation formula reflects the concept of relative use of the entire facility.

The bill does not set specific rules for determining whether terms and conditions of pole attachment contracts are "just and reasonable." These usually include matters relating to inspections, extent and duration of use license, liability for a portion of future capital costs, insurance, surety bonds, lease revocation, and like matters. The fairness of any such terms and conditions cannot be precisely translated into statutory language because they will have to be viewed in the context of other contractual provisions, the prevailing practice in the industry, and the proposed pole attachment rate. The "just and reasonable" standard is sufficiently precise for the regulatory bodies to make a proper determination when presented with

specific contractual provisions which are allegedly unfair.

Third, under the sunset provision contained in the legislation, the bills required zone of reasonableness will be repealed five years after the bill is enacted. While a zone is necessary in view of present circumstances we do not wish to restrict the discretion of the FCC and the states indefinitely. Therefore, Chairman Van Deerlin wisely suggested that the zone be eliminated after five years. This sunset provision will afford the FCC and non-federal authorities greater leeway to select a more appropriate rate making standard should experience and changed conditions so dictate. After five years, these regulatory bodies will only be guided by the "just and reasonable" standard.

While this range of reasonable rates is appropriate for cable television pole attachments, it is not the Committee's intent to imply it favors this standard for any other aspect of domestic common carrier or other communications regulation. As you know, Mr. Speaker, under Chairman Van Deerlin's able direction, the Communications Subcommittee is undertaking an in-depth review of the Communications Act of 1934. An important aspect of that review is to determine the proper ratemaking criteria to be used for common carrier regulation. It would thus be premature to imply that this standard would be appropriate for any other area of communications price regulation.

In conclusion, let me again compliment both Mr. Van Deerlin and the ranking minority member of the Communications Subcommittee, Mr. Frey, for their able leadership on this legislation. As a result of their work a problem which was brought to the attention of the Subcommittee less than two years ago should soon be resolved.

Mr. FREY. Mr. Speaker, I yield myself such time as I may consume.

(Mr. FREY asked and was given permission to revise and extend his remarks.)

Mr. FREY. Mr. Speaker, I support passage of H.R. 7442, a bill that addresses a long standing problem for the cable television industry.

There are very few States in which there is a forum for cable television operators and utilities to present their respective positions in a dispute over the rates, terms, or conditions for pole attachments. As a result, the cable operators have often faced a take it or leave it situation in a dispute over a contract that they could neither afford to take nor leave. Unless the cable operator can attach his wires to poles, he may not be able to operate. If he agrees, and he may have no other choice, to an extremely high rental fee, his economic viability may be threatened.

Unlike the bill passed by our committee last year, this bill has the effect of establishing a nationwide standard for pole attachment rates. While I have in the past been uncomfortable with that concept, I view this bill as an interim relief measure since the rate standards expire after 5 years.

I would also note that our subcommittee will revisit this issue next year during our revision of the Communications Act.

Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, as a primary sponsor of the utility pole attachment bill, H.R. 7442, I am pleased that this needed legislation has finally reached the House floor for a vote. As a result of considerable discussion over the past several months H.R. 7442 is a relatively noncontroversial bill which focuses on a major controversy that has been the subject of extensive hearings last year, and this year by the Communications Subcommittee. I am glad that a workable compromise has been worked out.

H.R. 7442 represents a needed and appropriate legislative remedy to settle disputes between the cable television industry, and utility companies over the rates, terms and conditions of cable pole attachments. Disputes have centered around who has regulatory authority over utility pole attachments. The Federal Communications Commission has stated that it does not have the authority to regulate pole attachment rates. To further complicate this problem, only three States—California, Rhode Island, and Connecticut—have asserted jurisdiction in regulating pole attachment disputes.

The cable television industry has traditionally relied on telephone and power companies to provide space on poles for the attachment of CATV cables. Primarily because of environmental concerns, local governments have prohibited cable operators from constructing their own poles.

Accordingly, cable operators are virtually dependent on the telephone and power companies to provide cable television service to millions of existing as well as potential, new subscribers. Some utilities have taken advantage of their position over the cable operators. The result has been unreasonable attachment charges and the forced interruption of services to consumers currently subscribing to cable television. As of July, there were 27 States in which pole attachment disputes existed. In some cases utilities had increased rates by an average of 61 percent over previous years. In my State of North Carolina, service was disrupted for 3 days to aproximately 1,200 cable subscribers when a dispute arose over a rate increase proposed by a utility company. For 9 years the cable industry has sought a resolution of this untenable situation. A situation, I might add, that is troublesome to both the cable industry and the power and telephone companies.

This is why I am particularly pleased with the legislation that is currently before the House for consideration. H.R. 7442 represents the efforts of both the cable television industry and the utilities in working out a legislative remedy that will provide a badly needed forum for the resolution of rates, terms, and conditions of utility pole attachments. This legislation will authorize the Federal Communications Commission to adjudicate disputes relative to the rates, terms, and conditions of pole attachments. Additionally, the bill provides that any State may preempt the FCC and assume jurisdiction at any time. The legislation also provides that regulations prescribed by the FCC, or the appropriate State authority, assure that the rates for pole attachments are just and reasonable. Just and reasonable rates shall not be less that the incremental costs to the utility of providing the attachment, and not more than the actual capital and operating expenses associated with the pole attachment to the utility company.

H.R. 7442 represents a fair and balanced approach which will protect the interests of both utility companies and the 12 million Americans who currently subscribe to cable television in over 7,600 communities throughout the United States. The two principal parties in this matter, the National Cable Television Association and the National Association of Regulatory Utility Commissioners have formally approved of H.R. 7442. Therefore, I hope that my colleagues will join with me in supporting this needed legislation, and thereby providing an appropriate resolution of the pole attachment controversy.

Mr. FREY. Mr. Speaker, I have no further requests for time.

Mr. WIRTH. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. GORE).

Mr. GORE. Mr. Speaker, I would like to direct a question to the author of the bill, the gentleman from Colorado (Mr. WIRTH). As I read the language defining State authority, it would appear to me that rural electric cooperatives are included in the exemption stated by that language. Is that the intention of the author of the bill?

Mr. WIRTH. The gentleman is correct; yes.

Mr. Speaker, I yield back the remainder of my time.

Mr. LUKEN. Mr. Speaker, I rise in support of H.R. 7442, a bill which I cosponsored, which would amend the Communications Act of 1934 to provide for the regulation of utility pole attachments.

The cable television industry brings broadcast signals and other entertainment and information to the subscribers by attaching its wires to existing utility company poles.

It has been brought to the attention of the Subcommittee on Communications that utility pole owners are now in a position to charge cable television companies almost any rates they choose for the rights to attach their equipment to the utility poles. Cable television owners do not have the leverage necessary to negotiate for a fair price. This places an unreasonable burden on the cable companies and their subscribers.

This bill would give either the Federal Communications Commission, or any State or local authority which so desired it, the authority to assure that attachment rates are just and reasonable. It further defines a just and reasonable rate as one which will assure the utility of recovery of not less than the additional cost of providing the pole attachment. The upper limit of such a rate must assure that the utility will not recover more than the actual capital and operating expenses of the utility attributable to the percentage of the total usable space on the pole occupied by the pole attachment.

It is important to note that 5 years from the date of the enactment of this bill the definition of what is a just and reasonable rate is repealed. This "sunset" provision insures that a definition which

properly reflects today's market realities does not lock the regulatory authorities into what may, in the future, become an antiquated standard as new technologies and new competitive relationships develop.

It is also important to point out that this bill gives the FCC authority to assure that rates are just and reasonable only in cases where State or local authorities do not wish to accept this responsibility.

Mr. Speaker, this is a good bill. It addresses a specific problem that has been brought to the attention of Congress. It does so, in what I believe, is a simple and straightforward manner without creating a large new Federal bureaucracy.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado (Mr. WIRTH) that the House suspend the rules and pass the bill H.R. 7442, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MARINER TRADE-IN BILL

Mr. BIAGGI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7278) to amend section 10 of the Merchant Marine Act, 1936, as amended.

The Clerk read as follows:

H.R. 7278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection 510(1) of the Merchant Marine Act, 1936 (46 U.S.C. 1160(1)) is hereby amended to read as follows:

"(1) The Secretary of Commerce is authorized to acquire mariner class vessels constructed under title VII of this Act and Public Law 911, Eighty-first Congress, and other suitable vessels, constructed in the United States, which have never been under foreign documentation, in exchange for obsolete vessels in the National Defense Reserve Fleet. For purposes of this subsection, the trade-in and trade-out vessels shall be valued at the higher of their scrap value in domestic or foreign markets as of the date of the exchange: *Provided,* That in any exchange transactions, the value assigned to the traded-in and traded-out vessels will be determined on the same basis. The value of the traded-out vessels shall be as nearly as possible equal to the value of the traded-in vessel plus the fair value of the cost of towing the traded-out vessel to the place of scrapping. To the extent the value of the traded-out vessel exceeds the value of the traded-in vessel plus the fair value of the cost of towing, the owner of the traded-in vessel shall pay the excess to the Secretary of Commerce in cash at the time of exchange. This excess shall be deposited into the Vessel Operations Revolving Fund and all costs incident to the lay-up of the vessels acquired under this Act may be paid from balances in the Fund. No payments shall be made by the Secretary of Commerce to the owner of any traded-in vessel in connection with any exchange under this subsection. Notwithstanding the provisions of sections 9 and 37 of the Shipping Act, 1916, vessels traded out under this subsection may be scrapped in approved foreign markets. The provision of this subsection (1) as it read prior to the 1976 amendment shall govern all transactions made thereunder prior to that amendment.".

The SPEAKER pro tempore. Is a second demanded?

Mr. RUPPE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. BIAGGI) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. RUPPE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I yield myself such time as I may consume.

(Mr. BIAGGI asked and was given permission to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, I rise in support of H.R. 7278, a bill to upgrade our National Defense Reserve Fleet by authorizing the Secretary of Commerce to acquire Mariner class and other suitable vessels in exchange for obsolete vessels in that fleet scheduled for scrapping.

As the Members know, the Secretary of Commerce has the responsibility to provide merchant shipping during times of national emergency. One of the most available sources of merchant shipping available to the Secretary for this purpose are the vessels which are laid up in the National Defense Reserve Fleet. Unfortunately, most of these vessels date back to World War II. By relative standards, they are slow, and have small carrying capacity.

In former years, U.S.-flag break-bulk vessels were readily available from both the scheduled liner service—both subsidized and nonsubsidized—and so-called tramp, or unscheduled shipping. The tramp fleet, once a large source of contingency surge capability is almost nonexistent. Since the U.S.-flag tramp fleet is no longer available, the National Defense Reserve Fleet is more important than ever.

Unfortunately, there are now only about 130 merchant vessels in the National Defense Reserve Fleet with any shipping utility. The remaining vessels are ready for scrapping.

Clearly, something must be done to upgrade this vital national security asset. And H.R. 7278 would just do that.

H.R. 7278 would authorize the Secretary of Commerce to acquire Mariner class and other suitable vessels, constructed in the United States, which have never been under foreign documentation, in exchange for obsolete vessels in the National Defense Reserve Fleet. A "suitable vessel" would be any oceangoing vessel determined by the Secretary of Commerce to be suitable for upgrading the National Defense Reserve Fleet. Any criteria to be used in determining whether a vessel is suitable would be set forth in regulations promulgated by the Maritime Administration of the Department of Commerce.

In acquiring such vessels, the traded-in and traded-out vessels would be valued on the same basis; at the higher of their scrap value in domestic or foreign markets on the date of the exchange. The value of the traded-out vessel would be as nearly as possible equal to the value of the traded-in vessel, plus the fair value of the cost of towing the traded-out vessel to the place of scrapping. The fair value of such towing is included because if the owner of such traded-in vessel were to scrap it abroad, he would be able to carry cargo to an area near where the vessel would be scrapped.

To the extent that the value of the traded-out vessel exceeds the value of the traded-in vessel, plus the towing cost, the owner of the traded-in vessel would pay the excess to the Secretary of Commerce in cash at the time of exchange for deposit into the Vessel Operations Revolving Fund, and all costs incident to the layup of the traded-in vessel would be paid from balances in the fund. No payments would be made by the Secretary of Commerce to the owner of any traded-in vessel.

Finally, H.R. 7278 provides that, notwithstanding the provisions of sections 9 and 37 of the Shipping Act of 1916, which prohibits the transfer of American-flag vessels to foreign ownership without the consent of the Secretary of Commerce, vessels traded out under the bill may be scrapped in approved foreign markets.

Mr. Speaker, the witness for the Department of Defense stressed that the opportunity afforded by H.R. 7278 to rejuvenate our National Defense Reserve Fleet by the acquisition of relatively modern cargo ships must not be lost, as such vessels are particularly well suited to the Department of Defense in wartime. The reported bill would provide for a most efficient method of accomplishing this objective with adequate safeguards for the Government.

I strongly urge the House to support H.R. 2787, so that we have the opportunity to upgrade the National Defense Reserve Fleet.

(Mr. RUPPE asked and was given permission to revise and extend his remarks.)

Mr. RUPPE. Mr. Speaker, I rise in support of H.R. 7278, a bill which allows the Secretary of Commerce to exchange obsolete vessels in the National Defense Reserve Fleet for newer vessels. This legislation basically extends, and makes permanent, a law which expired on January 2, 1977. I support it because it would permit the improvement of our National Defense Reserve Fleet at no expense to the taxpayer.

Because of containerization and other technological improvements in the U.S. merchant marine, many standard general cargo ships built in the 1950's and 1960's have become commercially obsolete and therefore subject to scrapping by their private owners. However, these vessels which are relatively fast and have self-sustaining cargo loading and discharging capacity are useful for military purposes. H.R. 7278 allows the Secretary of Commerce to obtain these vessels by exchanging them for vessels in the National Defense Reserve Fleet which are obsolete in every respect. Thus the Government gets a newer vessel, and the private owner gets equivalent scrap value